

COUNTIES AUTHORIZED TO ISSUE BONDS FOR RECLAMATION OF LANDS AND IRRIGATION PURPOSES, ETC.

S. B. No. 267.]

CHAPTER 128.

An Act authorizing counties to issue bonds under Section 52 of Article 3, or Section 59 of Article 16 of the Constitution, for reclamation of lands and for irrigation purposes; empowering such counties to construct, purchase and acquire reservoirs, dams, levees, wells, canals, laterals, ditches, pumping plants, and other improvements required for the proper and efficient irrigation of the land in such counties; to hold elections upon the question of issuing bonds and the levy of taxes for their payment; providing for the levy and collection of such taxes; providing for the control, management and operation of the irrigation system of such counties; providing for the issuance of notes by such counties for certain irrigation purposes; and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Any county in this State is hereby authorized and empowered to issue bonds in any amount not to exceed one-fourth of the assessed valuation of the real property of such county, and to levy and collect such taxes to pay the interest upon such bonds and provide a sinking fund for the redemption thereof, for the construction and maintenance of pools, lakes, reservoirs, dams, canals and waterways for the purposes of irrigation or in aid thereof, and such county undertaking such project, may make such improvements or may purchase improvements already existing, or may purchase improvements and make additions thereto, and may issue bonds in payment therefor, together with the necessary incidental expenses connected therewith as herein provided.

SEC. 2. Upon the petition of fifty or more of the resident property taxpaying voters of any county in this State, to the county commissioners' court of such county, praying for an election upon the question of issuing bonds under the provisions of Section 52, Article 3, or Section 59 of Article 16 of the State Constitution, such court shall have the power, and it is hereby made its duty, at any regular or special session thereof, to order an election to be held in such county to determine whether or not the bonds of such county shall be issued in any amount not to exceed one-fourth of the assessed valuation of the real property of such county for the purpose stated in Section 1 of this Act, and whether or not a tax shall be levied upon the property of said county subject to taxation for the purpose of paying the interest on such bonds and to provide a sinking fund for the redemption thereof, as provided and authorized by Section 52 of Article 3, or organized under Section 59 of Article 16 of the State Constitution. The amount of bonds proposed to be issued, with the rate of interest thereon not to exceed six per cent per annum, payable annually or semi-annually, and date of maturity, shall be stated in the petition, in the order ordering the election, and in the notice therefor; or such order and notice may provide that the

bonds may bear interest at a rate to be fixed by the commissioners' court, not to exceed six per cent per annum, payable annually or semi-annually, and that the bonds may mature at such times as may be fixed by the commissioners' court, serially or otherwise, not to exceed forty years from their date; provided, however, that the amount of the bonds proposed to be issued shall not exceed the amount stated in the election order and in the notice of election; and provided further, that where such county contains any district, or districts organized under Section 52 of Article 3, or Section 59 of Article 16 of the State Constitution the percentage of indebtedness of no one of such districts based upon its assessed valuation of real property in the district, together with the percentage of the proposed county indebtedness based upon the assessed valuation of the real property of the county, as shown by the last approved assessment rolls of such district and of the county, shall ever exceed in any one or more of such districts, or in the county, twenty-five per cent of the assessed valuation of real property of such district, or districts, or of such county.

SEC. 3. At said election only resident property taxpayers who are qualified electors of the county shall be allowed to vote, and if a two-thirds majority of such voters, voting thereon, shall vote in favor of issuing such bonds the commissioners' court shall have authority, and it shall be its duty, to issue the bonds. The ballots to be used at such election shall have written or printed thereon the words: "For the issuance of the bonds and levy of tax in payment thereof," and, "Against the issuance of the bonds and levy of tax in payment thereof," and the commissioners' court shall furnish, or cause to be furnished, a sufficient number of ballots for use at each of the polling places.

SEC. 4. The election order shall fix the time of holding said election, and shall designate the polling place, or places, in each voting precinct in the county where said election shall be held, and shall name a presiding judge, a judge and two clerks for each polling place, or may name more election officers for any polling place if the court considers it necessary.

SEC. 5. A copy of the election order signed by the county judge shall serve as proper notice of said election, and one copy of the same shall be posted up at each polling place and one copy at the court house door of the county for at least full twenty days prior to the date of the election, and shall be published in a newspaper published in said county for three consecutive weeks prior to the date of said election, the first publication to be full twenty-one days before the date of the election.

SEC. 6. The manner of conducting said election shall be governed by the election laws of the State of Texas, except as otherwise herein provided.

SEC. 7. Immediately after the election the presiding judge at each polling place shall make returns of the result of the election, showing the number of votes cast and the number cast for the

proposition to issue the bonds and the number cast against the same, and he shall deliver such return to the county clerk of the county. The county clerk shall keep such returns in a safe place, and deliver them to the commissioners' court, who shall at a regular or special session of the court canvass said returns and declare the result of said election by order entered upon the minutes of the court.

SEC. 8. After canvassing the returns and declaring the result of the election as provided in the preceding section, if such canvass shows that the issuance of the bonds, and levy of the tax have been adopted, the commissioners' court, at a regular term thereof, shall make and enter an order directing the issuance of the bonds not to exceed the amount specified in the order for the election and in the notice of election, and in said order shall provide for the levy and collection of a tax annually sufficient to pay the interest on said bonds and create a sinking fund sufficient to redeem them at maturity, and the principal and interest of such bonds may be made payable at such place, or places, as may be provided in said order. Provided, however, that if, after an election has been held for the issuance of bonds, and bonds have been authorized to be issued, or have been issued as provided in this Act, the commissioners' court of such county shall consider it necessary to make any modifications in any of the proposed improvements, or shall determine to purchase or construct any further or additional improvements and issue additional bonds, or purchase additional property in order to carry out the purposes of the project, or to best serve the interests of the county, such findings shall be entered of record, and an order for an election shall be entered and notice thereof given which election shall be ordered, notice thereof given, and held and the result thereof declared in accordance with the provisions of this Act, and if the result of such election be declared in favor of the issuance of such additional bonds the commissioners' court may order such bonds to be issued in the manner provided in this Act. Provided, further, that whenever such county shall have constructed or purchased said improvements and the same shall be damaged so that it may be necessary to raise funds to repair such damage, the county may issue bonds to raise such funds in the manner provided in this Act, or may issue its notes, such notes to run not to exceed twenty years and bear interest not to exceed six per cent per annum payable annually or semi-annually. Before such notes are issued the commissioners' court shall order an election and give notice thereof as required for elections upon bond issues, stating the purpose for which they are to be issued, the time they are to run, the rate of interest they are to bear, and the time and place or places, of said election. The ballots for said election shall have written or printed thereon "For the issuance of notes," and "Against the issuance of notes." The election shall be held and returns made and canvassed as provided herein for bond election. If a two-thirds majority of those voting at such election voted in favor of the issuance of such notes, the commissioners' court may issue and sell same for the bene-

fit of said county and the purpose, or purposes, for which authorized. The commissioners' court shall pass and enter an order directing and authorizing the issuance of the notes, and in said order provision shall be made for the levy and collection of a tax annually sufficient to pay the current interest on said notes and provide a sinking fund for the payment of the principal at maturity. Said notes may be issued to mature at a fixed date, or may be issued to mature serially or otherwise, as may be provided in the election order and notice of election; provided, that the limitation of indebtedness hereinbefore provided shall apply to the issuance of such additional bonds and such notes.

SEC. 9. All bonds and notes issued under the provisions of this Act shall be issued in the name of the county, and such bonds shall be designated "..... County Water Improvement Bonds," and such notes shall be designated "..... County Water Improvement Notes," and all such bonds and notes shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer, and the seal of the commissioners' court shall be impressed thereon, and may be in such denominations as may be fixed by the commissioners' court.

SEC. 10. The commissioners' court shall sell said bonds and notes on the best terms and for the best possible price, but none of said bonds or notes shall be sold for less than their par value. When the bonds or notes are sold, all the money received therefor shall immediately be paid over to the county treasurer, provided, that the commissioners' court may exchange bonds for property to be acquired by purchase under contract or in payment of the contract price for work to be done in the construction of said improvements.

SEC. 11. Any county desiring to issue bonds in accordance with the provisions of this Act, shall bring an action in the district court of such county, or in the district court of Travis County, to determine the validity of such bonds in the manner provided for the validation of Water Improvement District Bonds in Chapter 2, Title 73, Complete Texas Statutes, 1920, and all of the provisions of said chapter relative to such suit, the duties of the Attorney General, the judgment to be rendered, the effect of such judgment, the duties of the Comptroller of Public Accounts, and other matters connected therewith, shall apply to the validation of such county bonds.

SEC. 12. Such counties operating under the provisions of this Act are hereby empowered to own and construct reservoirs, dams, levees, wells, canals and other improvements, and to acquire the necessary rights-of-way and other lands by purchase or by condemnation in the manner provided for the condemnation of right-of-way by railroad companies, and to do, construct, purchase and acquire all other works and improvements required for the proper and efficient irrigation of the lands in such county.

SEC. 13. The commissioners' court shall annually levy a tax sufficient to pay the current interest on such bonds and to pay the principal thereof as the same becomes due, and said tax shall be assessed and collected as other county taxes are assessed and collect-

ed, and said taxes, when collected, shall constitute a special fund and shall not be diverted or used for any other purpose than in this section provided.

SEC. 14. The county commissioners' court shall have and exercise the control, management, affairs and operation of the irrigation system of such county to the same extent and in the manner provided in Chapter 2, Title 73, Complete Texas Statutes, 1920, as conferred upon the directors of Water Improvement Districts, and said court shall exercise all of the powers relative to the control, management, affairs and operation of such county irrigation system, as such directors have under the provisions of said Chapter 2, Title 73, and all the provisions of said chapter relative to the control, management, affairs and operation of Water Improvement Districts shall apply to the control, management, affairs and operation of such county irrigation system.

SEC. 14a. It is expressly provided that the terms of this Act shall not in any manner apply to any county in this State except such county as may have been relieved from the payment of taxes for a term of years by act of the Legislature under and by virtue of the provisions of Section 10, of Article 8, of the Constitution of the State of Texas.

SEC. 14b. Any county authorized under the provisions of this Act to issue bonds may issue such bonds for the improvement of rivers, creeks and streams to prevent overflow and for all necessary drainage purposes in connection therewith, and bonds proposed to be issued for the combined purposes stated in this Act, or for any two of said purposes, shall be treated and deemed as for one purpose and may be voted upon as one proposition.

SEC. 15. The fact that there is now no law authorizing counties to issue bonds and make improvements as in this Act provided, that it requires a long time to construct such improvements, and the further fact that several counties of the State desire to take advantage of the provisions of this Act at the earliest date possible so as to complete as nearly as they can such improvements during the current year in order to avail themselves of the benefits during the next year, create an emergency and an imperative public necessity that the rule requiring bills to be read on three several days be suspended and that this Act take effect from and after its passage, said rule is hereby suspended, and this Act shall take effect from and after its passage, and it is so enacted.

[NOTE.—The enrolled bill shows that the foregoing Act passed the Senate, no vote given; and passed the House of Representatives, with amendments, no vote given; and that the Senate concurred in House amendments.]

Approved March 24, 1923.

Effective 90 days after adjournment.